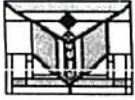


ITEM #1 Responsive Documents – ORC Region 4

2011 Selection – GS-15 Senior Counsel – RCEC for Water



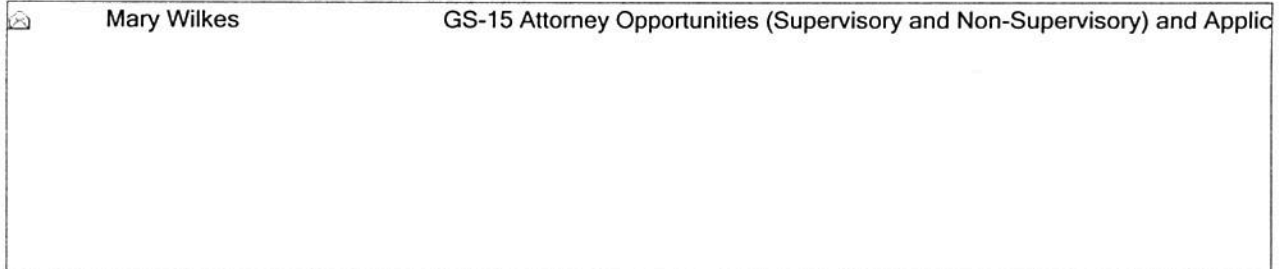
{In Archive} GS-15 Attorney Opportunities (Supervisory and Non-Supervisory) and Application Process

Mary Wilkes to: R4 OEA Attorneys

10/06/2011 05:40 PM

Cc: Gay Henkle, Connie Barfield

Archive: This message is being viewed in an archive.



The management team is happy to announce the opportunity for eligible OEA attorneys to apply for the following ~~GS-15~~ attorney positions:

- (1) Chief of the Office of RCRA, UST, OPA Legal Support, and
- (2) Senior RCEC for Water Issues

Each of the two ~~GS-15~~ positions being offered at this time is both rewarding and challenging, as you will see by reviewing the position descriptions (PDs) attached below. Please review these PDs carefully before deciding whether to apply for either of these positions, as they will give you a clearer understanding of the expectations that will be placed on those selected. In particular, you should note that the PD for the Senior RCEC position reflects a greater potential trial role than is typical for attorneys in our office. Please also review carefully the attached 'criteria' documents for the positions entitled "RCRA Office Chief Criteria" and "Non-supervisory ~~GS-15~~ Criteria", respectively, (hereinafter Criteria documents.), as they set forth criteria which must be met in order for any applicant to be selected to fill the respective positions.

To be considered for these positions, you must have at least one year of experience as an attorney in the federal government at the GS-14 level. To apply, you must submit in hard copy: (1) a current resume, and (2) a narrative application that describes briefly (3 pages or less) examples of your work experience that address the criteria contained in the Criteria document(s) for the position(s) for which you are applying. Please note that prior experience in the particular subject matter area is not a prerequisite for selection to either of the currently offered positions, and is not, therefore, contained in either Criteria document. It is management's assumption that an attorney who clearly exhibits the skills identified in the Criteria documents should be able to quickly develop the expertise to operate at the ~~GS-15~~ level, as described in either of these PDs. Thus, the management team encourages applicants who believe they meet the requirements in the Criteria document(s) to apply for any of the offered positions in which they believe they could be successful and in which they would be willing to serve.

You need only submit one narrative and one resume regardless of whether you are applying for one or both of the positions. However, be sure to clearly reflect in your narrative application the position(s) for which you wish to be considered, and make sure that your narrative addresses the criteria for each position for which you are applying. If you are applying for both positions, please indicate any preferences you have among the positions. While, as noted above, particularized experience is not a prerequisite to either of the above positions, it will be a factor that management considers in the overall selection process. Therefore, your narrative should identify any knowledge or experience you have that would be directly relevant, or transferable, to the position(s) you are seeking. For the Senior RCEC position, this would include not only any Clean Water Act experience, but also any trial-related

experience. Application materials must be submitted to Connie Barfield by COB Friday, October 21st. Connie will provide each of the managers with a copy of your application package. If you applied for one or more of the GS-15 positions that were offered in May and June, you need not resubmit your resume and narrative again unless you wish to revise or update them to better address the specific criteria or experiences relevant to these particular positions. You can, instead, simply submit an email to Connie by COB on October 21st advising her of the position(s) for which you are applying, and asking her to provide copies of your previous application materials to management.

The management team (as a group) will be interviewing all applicants for the two positions. We hope to be able to conduct all interviews by the second week in November, and to make our proposed selections shortly thereafter. Once we have made them, our proposed selections will be sent to OECA for approval, after which the paperwork will go to the Shared Service Center (SSC) for processing before the selections are final and can be announced. Given the unusual length of the last approval process, I am reluctant to speculate on how long it will be before I can announce the final selectees. However, we will do our best to keep the approval process moving as expeditiously as possible.

Should you have any questions about the process described above, please do not hesitate to talk to your supervisor or any member of the management team. -Mary



RCRA Office Chief Criteria.docx



RCRA Office Chief PD.doc



Non-Supervisory GS-15 Criteria.docx



Senior RCEC for Water Issues GS-15 PD.doc

Non-Supervisory Attorney GS-15 Criteria

1. Excellence in oral and written advocacy, legal research, writing and editing skills;
2. Excellence in analyzing highly complex fact patterns, caselaw, regulations, statutory provisions, and policies, as well as in providing clear and comprehensive legal and policy recommendations to EPA management (oral and written) based on that analysis;
3. Ability to coach, mentor, and develop others;
4. Ability to develop and maintain highly effective, cooperative, and productive working relationships with a wide variety of persons within and outside the Agency (e.g., OEA co-workers; managers and staff within Region 4, at Headquarters, in other Regions and at DOJ; state attorneys) ;
5. Ability to master new areas of practice quickly, and to handle multiple tasks, including a heavy case/work load simultaneously and effectively;
6. Ability to perform duties with a very high degree of independence and professional judgment.

Attorney-Adviser
GS-0905-15

I. INTRODUCTION

Organizational Location: This position is located in the Immediate Office of the Deputy Regional Counsel, Office of Environmental Accountability (OEA), Region 4, U.S. Environmental Protection Agency (EPA), Atlanta, Georgia.

Primary Purpose: The incumbent serves as the Senior Regional Criminal Enforcement Counsel (RCEC) for CWA Issues, particularly CWA § 404 jurisdictional issues, arising in the context of criminal enforcement. As such, the incumbent ensures the provision of legal advice and assistance, and policy recommendations to the Criminal Investigation Division (CID), the Regional Counsel, Deputy Regional Counsel, OEA Legal Office Chiefs, and other Regional senior management regarding criminal enforcement of the CWA, and particularly regarding CWA § 404 jurisdictional issues, arising in criminal enforcement matters. The incumbent is responsible for overseeing the development of highly sensitive enforcement cases concerning the most egregious forms of environmental violations. Such cases are often highly complex and difficult, and resolution of the same requires a high degree of legal expertise.

II. MAJOR DUTIES AND RESPONSIBILITIES

The incumbent is responsible for all legal aspects of the criminal enforcement of environmental statutes and related statutes within OEA. These matters involve a wide variety of highly complex and unusual matters requiring extensive knowledge and a very high degree of expertise as well as extensive legal research and analysis, together with consideration of highly complicated factual and policy issues. Acts as attorney in the Region for interpreting for the Regional Administrator, the regional program managers, CID and Department of Justice (DOJ) a substantial body of environmental laws and Agency regulations and assisting in the criminal enforcement of these laws and regulations in actions before state and federal trial and appellate courts. Matters assigned usually have precedential effects, may have the effect of substantially broadening or restricting the Agency's activities, and may have an important impact on major industries in the Region. These matters often involve substantial sums of money (e.g., millions of dollars in fines), are rigorously contested and generate intense media interest. Specific duties include the following:

A. Senior Regional Criminal Enforcement Counsel for CWA Issues:

The incumbent is responsible for all legal aspects of the criminal enforcement of the Clean Water Act, maintains expertise and active practice as Senior RCEC for CWA Issues, and serves as a consultant to other attorneys in the Agency, Region 4, and states within Region 4 regarding CWA criminal enforcement.

The incumbent serves as a recognized national legal authority on CWA jurisdictional issues, including the application of relevant case law, policy and guidance to such issues, as they arise in the context of CWA criminal enforcement.

The incumbent maintains substantial expertise and active practice in assisting CID, the U.S. Attorneys' Offices, and the Department of Justice in analyzing the viability of CWA criminal enforcement cases and in assisting in the prosecution of such cases. This includes substantial expertise in evaluating the merits of the Agency's jurisdictional claim based on available evidence, preparing fact witnesses and expert witnesses for trial on Clean Water Act jurisdictional matters, assisting with briefs asserting the United States' position regarding CWA jurisdictional issues, and acting as co-counsel for the government at trial to present the factual and jurisdictional aspects of CWA cases as needed.

B. Regional Criminal Enforcement Counsel:

The incumbent reviews cases to determine whether to recommend investigation and/or prosecution, and serves as advisor to regional and OEA senior management on all legal matters pertaining to criminal enforcement. The RCEC considers the weight of the evidence, especially the willfulness of the violation and the environmental or public health impacts which were caused or could have been caused by the violation, the necessity for uniform application of the law throughout the country, the cost of litigation and other factors which bear on the advisability of prosecution. Advice must take into consideration the differing and often times competing interests of effective enforcement, individual rights, state/federal relations, EPA/DOJ roles, and the public interest in environmental protection and punishment of wrongdoers.

The incumbent coordinates criminal investigations and prosecutions with OEA management, including the supervision of parallel proceedings and global settlements.

The incumbent serves as one of Region 4's legal experts in the area of litigation and enforcement matters, and serves as a senior attorney in consultation with other attorneys in the Agency and the Region. The incumbent acts as one of EPA's primary attorneys in assisting in the preparation and presentation of environmental cases before trial and appellate courts. Such cases often require the involvement of multiple attorneys, expert witnesses, criminal investigators, and para-professional personnel. In addition, the attorney provides innovative and creative options in the enforcement context to ensure that the Agency and the Region obtain the results needed for effective environmental problem solving. Advice is provided, as requested, to other offices including state agencies, other Regional EPA offices, OCEFT, other federal agencies, and DOJ attorneys.

The incumbent researches legal questions involving environmental regulations and statutes, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the U.S. Sentencing Commission Guidelines concerning EPA's major regulatory programs. The incumbent also prepares and reviews criminal search warrants, referrals, indictments, motions, responses, briefs and other criminal enforcement documents for legal sufficiency and consistency with Agency legal interpretations and policy guidance.

Either acting directly, or through the OEA Regional Counsel/Director or Deputy Regional Counsel, the incumbent provides the Regional Administrator, Deputy Regional Administrator, and the regional divisions and offices with general advice and (upon request) policy recommendations for the regional criminal enforcement programs, operations, and activities so that their major decisions are made with applicable legal considerations in mind.

The incumbent provides legal advice and policy recommendations to EPA regional program management, CID, OEA management, OCEFT, U.S. Attorneys and DOJ's criminal division concerning criminal enforcement, particularly as it pertains to CWA jurisdiction and enforcement issues. In unique circumstances, the incumbent appears before grand juries after appointment as a Special Assistant United States Attorney by the Department of Justice. The incumbent also assists the Department of Justice, when requested, in the preparation and litigation of environmental criminal cases.

The incumbent represents the Region at conferences and meetings held with other Federal departments and agencies, congressional committees and individual congressmen and senators, the General Accounting Office, governors of states, and staff offices of governors, state and local officials and representatives of private industry. In this capacity, the incumbent is required to give expert legal advice with respect to many novel legal situations and problems arising from the enforcement of criminal laws within the environmental context.

Performs other duties as assigned.

C. FACTORS

Factor 1 - Knowledge Required by the Position

Mastery of the environmental statutes administered by EPA and a working knowledge of the other criminal provisions of the United States Code.

Mastery of constitutional criminal law, the Federal Rules of Evidence, Federal Rules of Criminal Procedure, and the U.S. Sentencing Commission Guidelines.

Knowledge of the operations of joint environmental crimes task forces.

Thorough familiarity with legal research techniques, including Westlaw/Lexis to effectively and efficiently perform extensive legal research.

In-depth knowledge of and experience in dealing with CWA jurisdictional issues.

Thorough familiarity with trial work including witness preparation, examination and cross-examination, and other trial-related activities.

Factor 2 - Supervisory Controls

The incumbent reports to the Deputy Regional Counsel, except where prohibited in parallel proceedings. The incumbent keeps the Regional Counsel/Director and Deputy Regional Counsel informed of major developments occurring in the attorney-client relationship with the regional program managers and with Office of General Counsel, Office of Enforcement and Compliance Assurance, and the Office of Criminal Enforcement, Forensics, and Training (OCEFT). Within assigned areas of responsibility, is expected to show a high degree of independence and initiative in ordering workload priorities, conducting research, preparing documents and pleadings and exercising judgment and initiative in completing assignments and making legal judgments and policy recommendations. All work is legally sufficient. Legal advice, policy recommendations, and advocacy during adversarial proceedings are considered expert.

The incumbent independently represents OEA in areas of assigned responsibility, although both consultation and discussion with the Deputy Regional Counsel are required, when necessary, in connection with major legal judgments, cross-media or multi-media implications, or national policy recommendations. Completed work is reviewable for consistency with national Agency policy and precedential effect. The incumbent frequently accepts research and legal project assignments directly from OCEFT.

Factor 3 - Guidelines

Guidelines are broadly stated and nonspecific, e.g., broad policy statements and basic legislation that require extensive interpretation. The employee must use judgment and ingenuity in interpreting the intent of the guides that do exist and in developing applications to specific areas of work. The employee is recognized as a technical authority in the development and interpretation of guidelines. Judgment is extremely relevant in determining proper case specific application of these guidelines.

Factor 4 - Complexity

The work consists of broad functions and processes of the legal field. Assignments are characterized by breadth and intensity of effort and involve several phases pursued concurrently or sequentially with the support of others within or outside the organization. Decisions regarding what needs to be done include largely undefined issues and elements and require extensive probing and analysis to determine the nature and scope of the problems. The work requires continuing efforts to establish concepts, theories, or programs, or to resolve unyielding problems.

Assignments involve complex and difficult legal questions requiring an intensive evaluation of information in controversial areas. By necessity, the incumbent must keep abreast of new and changing case law in three different judicial circuits.

Factor 5 - Scope and Effect

The purpose of the position is to serve as the Senior Regional Criminal Enforcement Counsel (RCEC) for CWA Issues, particularly CWA jurisdictional issues, arising in the context of criminal enforcement. In this role, the incumbent acts as the Agency's expert legal consultant to CID, DOJ and the U.S. Attorney's Offices in criminal cases involving enforcement of the CWA. Successful enforcement of cases provides the incentive for other pollution sources to comply with applicable environmental law requirements.

Factor 6 - Personal Contacts

Contacts are with the various U.S. Attorneys and their assistants, attorneys with DOJ, State Attorneys General, mayors, councilmen, corporate representatives, technical and legal staff from both the Agency and industry, CID, FBI, and other federal and state law enforcement agencies.

Factor 7 - Purpose of Contacts

Contacts with technical and legal staff are for the purpose of evaluating the compliance with applicable laws. Contacts with mayors, councilmen, corporate representatives, etc., are for the purpose of discussing compliance efforts, controversial environmental issues,

enforcement posture of the Agency and negotiations designed to arrive at a mutually acceptable solution to the environmental problems. Contacts with U.S. Attorneys are to discuss the viability of civil or criminal litigations, to provide expert legal advice on CWA jurisdiction, to provide the necessary trial or pretrial briefs, and to discuss the negotiation and settlement of cases pending in the various judicial districts.

Factor 8 - Physical Demands

The work involves no unusual physical demands other than the ability to travel by car or by air.

Factor 9 - Work Environment

There is no significant risk or discomfort imposed by the physical surroundings.

IV. **QUALIFICATIONS**

The incumbent must have an LL.B or J.D. degree from an accredited law school; must be admitted to practice before the highest court of a State, U.S. Territory, the District of Columbia, or the Commonwealth of Puerto Rico, and must maintain active status as a member of the bar of one of these jurisdictions. The incumbent must have significant experience in providing legal advice and counsel at EPA, other federal, state or local agencies, or in private practice.

Office of Environmental Accountability
Senior Attorney/Management Selection Process - November 2011

Positions/# of applicants:

- Senior RCEC for CWA Issues – 3 applicants
- RCRA/OPA/UST Supervisory Position – 3 applicants

Type of process: competitive

Components of process:

1. **Application and Resume:**
 - a. Application required a narrative that briefly described (in 3 pages or less) examples of applicant's work experience addressing the six established criteria non-supervisory attorney GS-15 criteria (if applying for a non-supervisory GS-15 position) or addressing the five supervisory RCRA/OPA/UST position criteria (if applying for the supervisory position) . Prior work experience in an area was not a prerequisite for selection of either position, but would be a factor (if present) in the selection process.
2. **Panel Interview.**
 - a. **Panel make up** - Legal Management Team members composed of those who were available for the interviews. There were 5 panel members for the non-supervisory position - (b) (5)
(b) (5) There were 6 panel members for the supervisory position (b) (5)
(b) (5)
 - b. **Interview questions –**
 - i. **For the non-supervisory position:** the same pre-set questions were used (identical to the questions asked in June 2011 in the previous round of GS-15 non-supervisory selections). Two applicants were asked these pre-set questions. One applicant who had previously been asked the pre-set questions in the June 2011 GS-15 selection round, was not re-asked these same questions, but was asked to discuss and elaborate on her relevant work experience.
 - ii. **For the RCRA/OPA/UST supervisory position:** the same pre-set questions were used and asked for all applicants.
3. **Deliberative Phase**
 - a. Group discussion format. For each applicant, panel members assessed the application, resume, interview, and applicant's work in the Office and whether the applicant met the established criteria. Panel members went through each criteria for each applicant and all Legal Managers with personal knowledge of the candidate's work provided input into this discussion. Discussion involved the strengths and weaknesses of each applicant – as they related to the six criteria; the particular Senior Attorney position and whether any particular criteria was particularly important to that position; and any experience the applicant possessed with respect to the position(s) being applied for.
4. **Decision-Making:** Consensus-based approach. If no consensus reached, the Regional Counsel will decide in consultation with the Deputy Regional Counsel. Consensus was reached on both final selections.
5. **Documentation:** Written summary was made of the deliberations /decision making for each applicant/each position.
6. **Notification to successful applicants:** Awaiting approval of proposed selectees.
7. **Public announcement (via email) and submittal of proposed selections to OECA for approval:** Awaiting approval of proposed selectees